



Volume 6, Issue 4

December 2000

Law Enforcement Action Forum NEWSLETTER



Defensive Tactics --The Foundation of Use of Force/Control in Law Enforcement: When Academy Training Is Not Enough

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Background

While the use of force and control within the state undergoes review by the State of Michigan using subject matter experts, Law Enforcement Officers' should not put training on hold. Several changes in Michigan have already occurred in the defensive tactics discipline. In a previous Law Enforcement Action Forum (LEAF) Newsletter, we indicated that changes would be coming. One of the most noteworthy of these changes is a "Michiganized" version of the Pressure Point Control Tactics (PPCT) defensive tactics terminology. The State of Michigan received approval from PPCT to use terminology that is more consistent with Michigan's Subject Control Continuum. In addition, there is a Michigan PPCT Defensive Tactics Student Manual that is consistent with the Michigan continuum. While the Michigan Municipal League Liability and Property Pool (Pool) and the Michigan Municipal League Workers' Compensation Fund (Fund) do not endorse any specific vendors' program. Rather the Pool and Fund look for State approval of a defensive tactics program, to include the additional use of force criteria of tactical, medical and legal guidelines to be satisfied. However, currently, most Michigan agencies use PPCT.

Michigan is currently reviewing other use of force and defensive tactics programs. In the interim, some agencies have purchased and used unapproved programs. Some of these programs probably will never receive State approval because of their content.

One agency went so far as to 'create' its own system of defensive tactics. Unfortunately, the program was riddled with potential exposures. When selecting a defensive tactics program for the department, it is important to consider both officer safety and the potential for reducing departmental and municipal liability.

Who Needs Defensive Tactics Training?

Some agencies erroneously believe defensive tactics training is no longer necessary for officers who have been on the road or in the jail for awhile because officers now carry an aerosol. We advocate that agencies conduct annual defensive tactics training to refresh skills and reinforce appropriate tactics. The proper use of defensive tactics allows officers to control suspects, detainees, etc. effectively if necessary. At the same time, using appropriate tactics minimizes injury to officers, unnecessary liability to the department, and less injury to the offender. The system of defensive tactics the agency

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adopts should meet Michigan Commission on Law Enforcement Standards' (MCOLES) use of force guidelines. Recently several departments have hosted vendors whose defensive tactics programs have not and probably could not earn MCOLES approval. Using such a program can put the officer, the department, the municipality and the subject at a greater risk of injury or liability. Systems like Pressure Point Control Tactics (PPCT), which is the State's de facto standard, have received MCOLES approval. Additionally, because of the modular structure of the PPCT system, the options to facilitate training are numerous. Other systems that also have the State's approval may also be appropriate for a department's needs.

Certified Police Officers clearly have a need for defensive tactics training. The training is necessary to update their skills after leaving the Police Academy. Officers are responsible for defending themselves and others as well as for controlling offenders and taking them into custody. Correctional staff has similar responsibilities. These individuals are obviously in need of training and annual update training.

Occasionally, agencies place less emphasis on other staff such as the Court Security Officer, Police Reserves, Probation Officers, and Parking Enforcement Officers. These employees also may have the need to defend themselves. There has been some recognition for some employees in this latter category to have a means of self-defense. However, their departments have only provided them with a weapon such as a gun. They have received no lesser force options. This, of course, leaves the employee with few force options -- a situation in which a department has created an exposure for itself.

Weapon Retention is an often forgotten aspect of law enforcement -- until we read the Federal Bureau of Investigation's (FBI) report of officers killed and assaulted in the line of duty. Training in this area can easily be part of the defensive tactics training that officers receive. Departments should conduct weapon retention training both in and out of the holster. FBI statistics indicate that 113 officers had their weapons



stolen and that approximately ten percent of the officers who died from 1988 to 1997 were killed with their own weapon. The need for weapon retention training is obvious. Agencies should act to ensure training takes place in a safe environment where unintentional discharges of weapons are eliminated.

The emphasis for Dispatchers, Parking Enforcement Staff, etc. may only be to defend themselves--more of a stun and run approach as opposed to taking follow-up control as a Police Officer or Sheriff's Deputy would. A defensive tactics system which is based on a modular concept will allow an instructor to teach these employee what they need to know without extraneous information.

The Major Reason Given For Not Providing Training In Defensive Tactics

Departments cite injuries to officers-in-training as one of their major reasons for not offering training on defensive tactics. This concern occasionally becomes so great that the department takes a mistaken risk avoidance approach by deciding not to train its employees in defensive tactics. While the concern for officer safety is appropriate and commendable, not training officers is not.

Other Reasons

Departments often do not provide defensive tactics training at the academy and they not see the value of doing it again. Many agencies believe that their officers do not have many physical confrontations and, when they do, the officers can usually talk people out of behaving badly. Departments will not provide training because there are no school in their areas, and they do not want to incur overtime costs. Finally, some departments are concerned that training may aggravate preexisting injuries among staff.

Addressing the Issues

Canton v. Harris clearly gives us guidelines to train officers in operations that are likely to occur. Common sense tells us that officers will be using force to defend themselves and effect forcible arrests. Unfortunately, even with the best intent some injuries do occur in training. The training context, however, can help to ensure that a reduction in the potential for injuries

outside of training both in frequency and severity. Training will also help minimize municipal liability.

Agencies should consider ways of minimizing training injuries. Choose a recognized training system. A recognized vendor should be able to answer questions about training injuries, their types, frequency, and severity, as well as ways to minimize them.

Selecting the appropriate instructor is a significant consideration. Departments should determine the instructor's philosophy on training and conduct an ongoing evaluation of training results. They should determine:

- If participants crawl away from training .
- If they have learned anything.
- The instructor's reasons for wanting to train the law enforcement community.
- If the instructor is interested in making money, in hurting people, or in showing off. If these are the motivations, then there is a problem.

An instructor, who is committed to officer safety, has a good reputation, can teach, and has a genuine concern for students and the department's objectives. This concern makes the training a positive and valuable experience. So how do departments find the wonder instructor? Departments must actively participate in the selection process. Choosing an instructor based on a flyer or brochure that the department receives is not adequate due diligence. Departments should question the instructor's credentials, teaching experience, training philosophy, and reputation. They should determine if the instructor has had complaints or sanctions against him or her, etc. The agency should feel comfortable that the individual or organization will represent it well in court. Because use of force issues frequently end up in court, this is an important consideration. Departments that participate in consortiums should express their opinions about the type of individual(s) they believe should conduct multi-department update training. Finally, developing an in-house instructor can alleviate many of the aforementioned issues as the instructor has probably proven his or her abilities and work ethic many times for the department. As the State of Michigan, via MCOLES, moves toward scenario based training, use of force training will culminate in more dynamic performance levels. At which point the choice of instructor(s) becomes even more critical. For as the

training becomes more dynamic (as it does in scenario based training) the level of injury potential increases.



Officers with preexisting injuries may require special consideration. Temporary injuries – a broken leg, for example -- should only postpone training. Permanent injuries may raise the question of whether the employee can perform essential job functions. There are also injuries or conditions that are neither temporary nor permanent. A condition that may be aggravated by training may also be aggravated by a street encounter. A good instructor will have an alternative method of training for individuals with conditions that fall in this latter category. One technique may not be appropriate because of the potential for aggravating the injury or condition. However, alternative technique or the modification of the existing technique may be acceptable. This, in fact, gives the employee an alternative, acceptable way to complete the objectives of the department effectively while minimizing injury potential.

Frequency of Training

A recommended frequency of training for in-service personnel is a minimum of sixteen hours of initial training and a minimum of eight hours of update training annually. The times do not, of course, include breaks and lunch which would increase the actual training day. To avoid overtime, the department or vendor can structure the training so that it takes several days. Be creative!

Neck Restraints

Department policy should be clear on the use of neck restraints. The State of Michigan does not currently distinguish between a vascular restraint (a restraint that applies pressure to the sides of the neck) or a respiratory restraint (a restraint that applies pressure to the front of the neck or trachea). This point underscores the fact that State of Michigan dictates the guidelines for use of defensive tactics, not the vendor.



DEFENSIVE TACTICS TRAINING CHECKLIST

- Choose a system that has received MCOLES approval
- Provide or verify Initial defensive tactics training for all need-to-know staff
- Provide annual update training
- Ensure that the system complements the State's and your department's use of force guidelines.
- Seamless transition to other levels of force, either escalated or deescalated
- Weapons retention addressed

The LEAF Committee of the Michigan Municipal League Liability and Property Pool and Workers' Compensation Fund continues to develop policies and resource documents designed to help Law Enforcement Executives manage their risk exposure. Do not hesitate to contact the Michigan Municipal League's Risk Management Services at 734-669-6344 or MML Loss Control Services at 800-482-2726, for your risk reduction needs and suggestions.

The LEAF Committee has updated the Manual for Law Enforcement Risk Reduction on CD-ROM. The CD's should be ready for distribution soon.

Gene P. King and Stephen J. Tobler wish all of you a Happy New Year!

Inside This Issue: Defensive Tactics – The Foundation of Use of Force/Control in Law Enforcement: When Academy Training is not Enough



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